

U. S. Department of Justice

Office of the United States Trustee
*Northern and Eastern Districts of
California and District of Nevada*

**SACRAMENTO AND MODESTO DIVISIONS
ALTERNATE PROCEDURES FOR 341 EXAMINATIONS**

Debtors are required to attend their meeting of creditors in person and subject themselves to questioning by the trustee and creditors.(11 U.S.C. §343) In some instances, when due to factors beyond the control of the debtor or situations of extreme hardship, the United States Trustee will approve a telephonic appearance by the debtor if certain standards are met.

If you believe a telephonic appearance is warranted, you must promptly take the following steps:

1. **As soon as the problem arises** contact the trustee and advise him/her that a request for an alternate appearance is being made to the UST.
2. Immediately send or fax a written request for a telephonic appearance to:
Antonia G. Darling,
Assistant U.S. Trustee
501 I Street, Suite 7-500
Sacramento, CA 95814
Fax (916) 930-2099
Email: antonia.darling@usdoj.gov

Do this early; the fact that you wait until the last minute does not make it our emergency. Generally requests that are complete will be responded to in a few days, but it can take longer, so allow at least 2 weeks.

3. The request should include the following:
 - Debtor's name and case number;
 - Date and time of the 341(if none is scheduled, no request will be granted);
 - Name of the trustee;
 - A phone or fax number where you can be reached during the day, or an message left;
 - Specific reason why the debtor is unable to attend the 341 in person;
 - Supporting evidence (doctors note, military orders, declaration, etc.)
 - Doctor's notes must be specific and include a diagnosis, a prognosis and a reason why the debtor cannot physically attend the meeting. If you client can make it to the doctor's office on their own to the doctor's office they will need to explain why they can't attend the 341 meeting.

Supporting evidence (doctors note, military orders, declaration, etc.)

Doctor's notes must be specific and include a diagnosis, a prognosis and a reason why the debtor cannot physically attend the meeting of creditors. Note: If your client can make it to the doctor's office on their own, or to your office, they will need to explain why they can't attend the 341 meeting.

4. **If approved**, we will send a memo to the trustee approving the phone appearance, with a copy to debtor or counsel. Debtors' counsel will need to be present with the debtor at the time of the telephonic 341 (home, hospital, local jail), in order to verify the debtor's proof of identity and ssn. If counsel cannot attend, then another specifically approved person must be retained. This can be another attorney, a notary, court reporter, an officer in the military, or a prison official. That person will need to be with the debtor at the beginning of the meeting to check ID and proof of SSN. A verification form will be provided to the debtor or counsel, for the authorized person to complete and return to the trustee.

5. Other alternatives are possible and do not require the approval of the OUST. These can be arranged directly with the trustee if the trustee agrees. This would include a brief continuance until the debtor returns or recovers, an off site meeting of creditors, or the use of Bankruptcy Rule 1016 when post filing death or incompetence of the debtor can be proven. (Evidence will be required).

6. Requests for a telephonic appearance will usually be approved for these reasons:

The debtor is hospitalized, in a nursing home or bed ridden.

The debtor is in jail serving a sentence with over 30 days left.

The debtor is in the military and stationed out of the area.

(Note: There is a specific procedure for military personnel serving in a combat zone. Please call for details if warranted)

7. Requests for a telephonic appearance will probably NOT be granted if:

The debtor is on vacation that week.

The debtor lived out of the area when they filed, or moved voluntarily.

The debtor can't get off work (seek a continuance)

The 341 is today (or yesterday) and the debtor has had this problem since the day of filing.

The Trustee informs us that a phone appearance would be inadvisable due to the circumstances of the case.

If you have any questions or an unusual situation call the office of the UST and ask for assistance immediately. Do not wait until the day of the meeting of creditors.